

1 **H. B. 3256**

2
3 (By Delegates Overington, Duke, Michael, Rowan,
4 Evans and J. Miller)

5
6 [Introduced February 21, 2011; referred to the
7 Committee on the Judiciary.]

8
9
10 A BILL to amend and reenact §60-7-10 and §60-7-12 of the Code of
11 West Virginia, 1931, as amended, relating to requiring the
12 closing hours of private clubs to be two o'clock a.m.

13 *Be it enacted by the Legislature of West Virginia:*

14 That §60-7-10 and §60-7-12 of the Code of West Virginia, 1931,
15 as amended, be amended and reenacted to read as follows:

16 **ARTICLE 7. LICENSES TO PRIVATE CLUBS.**

17 **§60-7-10. Duties and powers of commissioner.**

18 The commissioner is hereby authorized:

19 (a) To enforce the provisions of this article.

20 (b) To enter the premises of any licensee at reasonable times
21 for the ~~purpose~~ purposes of inspecting the ~~same~~ the premises and
22 determining ~~the compliance of said~~ whether the licensee has
23 complied with the provisions of this article and any rules ~~and~~
24 ~~regulations~~ promulgated by the commissioner pursuant to the
25 provisions of this article.

1 (c) To ~~promulgate such~~ propose for promulgation reasonable
2 rules ~~and regulations as may be~~ necessary for the execution and
3 enforcement of the provisions of this article, which may include,
4 but shall not be limited to, ~~the hours during which licensees may~~
5 ~~sell alcoholic liquors,~~ and the use, handling, service and sale of
6 such alcoholic liquors. ~~Such~~ The commissioner shall propose rules
7 ~~and regulations shall be promulgated~~ for promulgation in accordance
8 with the provisions of article three, chapter twenty-nine-a of ~~the~~
9 this code in like manner as if said article three of said chapter
10 ~~twenty-nine-a were set forth in extenso in this subdivision.~~

11 (d) To issue subpoenas and subpoenas duces tecum for the
12 purposes of conducting hearings under the provisions of section
13 thirteen of this article, which ~~subpoenas and subpoenas duces tecum~~
14 shall be issued in the time, for the fees, and shall be enforced in
15 the manner specified in section one, article five, chapter twenty-
16 nine-a of this code ~~with like effect as if said section one were~~
17 ~~set forth in extenso in this subdivision.~~

18 (e) The authority granted in ~~subdivisions~~ subsections (a),
19 (b) and (d) of this section may also be exercised by the duly
20 authorized agents of the commissioner.

21 **§60-7-12. Certain acts of licensee prohibited; criminal penalties.**

22 (a) It is unlawful for any licensee, or agent, employee or
23 member thereof, on such licensee's premises to:

24 (1) Sell or offer for sale any alcoholic liquors other than

1 from the original package or container;

2 (2) Authorize or permit any disturbance of the peace; obscene,
3 lewd, immoral or improper entertainment, conduct or practice,
4 gambling or any slot machine, multiple coin console machine,
5 multiple coin console slot machine or device in the nature of a
6 slot machine, except as provided in article twenty-two-a, chapter
7 twenty-nine of this code;

8 (3) Sell, give away or permit the sale of, gift to or the
9 procurement of any nonintoxicating beer, wine or alcoholic liquors
10 for or to, or permit the consumption of nonintoxicating beer, wine
11 or alcoholic liquors on the licensee's premises, by any person less
12 than twenty-one years of age;

13 (4) Sell, give away or permit the sale of, gift to or the
14 procurement of any nonintoxicating beer, wine or alcoholic liquors,
15 for or to any person known to be deemed legally incompetent, or for
16 or to any person who is physically incapacitated due to consumption
17 of nonintoxicating beer, wine or alcoholic liquor or the use of
18 drugs;

19 (5) (A) Sell, give or dispense nonintoxicating beer, wine or
20 alcoholic liquors in or on any licensed premises or in any rooms
21 directly connected therewith, between the hours of ~~three~~ two
22 o'clock a.m. and one o'clock p.m. on any Sunday, or between the
23 hours of two o'clock a.m. and seven o'clock a.m. on any weekday;
24 and

1 (B) Any patron present on the licensed premises after the sale
2 or dispensing of nonintoxicating beer, wine or alcoholic liquors
3 has ceased, as provided in paragraph (A) of this subdivision, shall
4 have a reasonable time, not to exceed sixty minutes, to vacate the
5 premises;

6 (6) Permit the consumption by, or serve to, on the licensed
7 premises any nonintoxicating beer, wine or alcoholic liquors,
8 covered by this article, to any person who is less than twenty-one
9 years of age;

10 (7) With the intent to defraud, alter, change or misrepresent
11 the quality, quantity or brand name of any alcoholic liquor;

12 (8) Sell or offer for sale any alcoholic liquor to any person
13 who is not a duly elected or approved dues paying member in good
14 standing of said private club or a guest of ~~such~~ a member;

15 (9) Sell, offer for sale, give away, facilitate the use of or
16 allow the use of carbon dioxide, cyclopropane, ethylene, helium or
17 nitrous oxide for purposes of human consumption except as
18 authorized by the commissioner;

19 (10) (A) Employ any person who is less than eighteen years of
20 age in a position where the primary responsibility for such
21 employment is to sell, furnish or give nonintoxicating beer, wine
22 or alcoholic liquors to any person;

23 (B) Employ any person who is between the ages of eighteen and
24 twenty-one who is not directly supervised by a person aged twenty-

1 one or over in a position where the primary responsibility for such
2 employment is to sell, furnish or give nonintoxicating beer, wine
3 or alcoholic liquors to any person; or

4 (11) Violate any reasonable rule of the commissioner.

5 (b) It is unlawful for any licensee to advertise in any news
6 media or other means, outside of the licensee's premises, the fact
7 that alcoholic liquors may be purchased ~~thereat~~ there.

8 (c) Any person who violates any of the foregoing provisions is
9 guilty of a misdemeanor and, upon conviction thereof, shall be
10 fined not less than \$500 nor more than \$1,000, or ~~imprisoned~~
11 confined in ~~the county~~ jail ~~for a period not to exceed~~ more than
12 one year, or both fined and ~~imprisoned~~ confined.

NOTE: The purpose of this bill is to change the closing hours of private clubs to two o'clock a.m. The bill also updates outmoded language.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.